

1                                   **SMALL BUSINESS INNOVATION RESEARCH**

2   2014 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Jerry W. Stevenson**

5                                   House Sponsor: Gregory H. Hughes

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies the Technology Commercialization and Innovation Act by allowing  
10 small businesses to apply for grants and loans under the act.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ defines small business;
- 14           ▶ allows small businesses, in addition to institutions of higher education, to apply for  
15 Technology Commercialization and Innovation Program grants and loans;
- 16           ▶ provides for rulemaking by the Governor's Office of Economic Development;
- 17           ▶ removes the State Advisory Council for Science and Technology from the funding  
18 allocation process; and
- 19           ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21           None

22 **Other Special Clauses:**

23           This bill takes effect on July 1, 2014.

24           This bill coordinates with S.B. 31, State Agency Reporting Amendments, by providing  
25 superseding amendments.

26 **Utah Code Sections Affected:**

27 AMENDS:

28           **63M-1-702**, as last amended by Laws of Utah 2011, Chapter 392

29           **63M-1-703**, as last amended by Laws of Utah 2011, Chapter 392

30 **63M-1-704**, as last amended by Laws of Utah 2011, Chapter 392

31 **Utah Code Sections Affected by Coordination Clause:**

32 **63M-1-704**, as last amended by Laws of Utah 2011, Chapter 392

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34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **63M-1-702** is amended to read:

36 **63M-1-702. Purpose.**

37 (1) (a) The Legislature recognizes that the growth of new industry and expansion of  
38 existing industry requires a strong technology base, new ideas, concepts, innovations, and  
39 prototypes.

40 (b) [~~These generally come from~~] Growth in industry frequently results from  
41 technological innovation generated by strong research [colleges and universities] institutions of  
42 higher education and by small businesses.

43 (c) Technical research in Utah's [~~colleges and universities~~] institutions of higher  
44 education should be enhanced and expanded, particularly in those areas targeted by the state for  
45 economic development.

46 (d) Most states [~~are enhancing~~] enhance their research base by direct funding, usually  
47 on a matching basis.

48 (e) The purpose of this part is to catalyze and enhance the growth of these technologies  
49 by:

50 (i) encouraging interdisciplinary research activities in targeted areas [and by];

51 (ii) facilitating the transition of these technologies out of the [university] higher  
52 education environment into industry where the technologies can be used to enhance job  
53 creation[-]; and

54 (iii) supporting the commercialization of technologies developed by small business to  
55 enhance job creation.

56 (f) The Legislature recognizes that one source of funding is [~~in matching~~] to match  
57 state funds with federal funds and industrial support to provide and develop [~~the needed~~] new

58 technologies.

59 (2) The Legislature recommends that the governor consider matching the allocation of  
60 economic development funds for the Technology Commercialization and Innovation Program  
61 [~~to be matched by~~] with industry and federal grants [~~on at least a two-for-one basis for colleges~~  
62 ~~and universities in the state that offer any doctoral degrees~~].

63 (3) (a) The Legislature recommends that the funds be allocated on a competitive basis:

64 (i) to the various [~~colleges and universities~~] institutions of higher education in the state  
65 [~~and~~];

66 (ii) to companies working in partnership with [~~colleges and universities~~] institutions of  
67 higher education to commercialize their technologies[~~;~~]; and

68 (iii) to small businesses that are developing promising technologies.

69 (b) The funds made available should be used to support:

70 (i) interdisciplinary research in the Technology Commercialization and Innovation  
71 Program in technologies that are considered to have potential for economic development in  
72 [~~this~~] the state and to help transition these technologies out of [~~the colleges and universities~~]  
73 institutions of higher education and into industry[~~;~~]; and

74 (ii) small businesses in commercializing their promising technologies that have the  
75 potential to increase economic development in the state.

76 Section 2. Section **63M-1-703** is amended to read:

77 **63M-1-703. Definitions.**

78 As used in this part:

79 (1) "Business team consultant" means an experienced technology executive,

80 entrepreneur, or business person who:

81 (a) is recruited by the office through a request for proposal process to work directly  
82 with a college or university in the Technology Commercialization and Innovation Program; and

83 (b) works with the institution to facilitate the transition of its technology into industry  
84 by assisting the institution in developing strategies, including spin out strategies when  
85 appropriate, and go-to-market plans, and identifying and working with potential customers and

86 partners.

87 (2) "Direct license" means ~~[the licensing]~~ a written license agreement between a  
 88 company and a Utah ~~[college or university of]~~ institution of higher education related to  
 89 technology developed at the ~~[college or university for]~~ institution of higher education with the  
 90 intent of commercializing the technology or facilitating its transition into industry.

91 (3) "Institution of higher education" means:

92 (a) a state institution of higher education as defined in Section 53B-3-102; or

93 (b) a private institution of higher education in the state accredited by a regional or  
 94 national accrediting agency recognized by the United States Department of Education.

95 ~~[(3)]~~ (4) "Licensee" means:

96 (a) a company that executes or is in the process of executing a direct license; or

97 (b) a sublicensee of the technology from a direct license.

98 (5) "Small business" means a business that:

99 (a) meets the size standards for the business's industry classification as identified by the  
 100 United States Small Business Administration in 13 C.F.R. Sec. 121.201;

101 (b) is organized for profit;

102 (c) operates primarily within the United States;

103 (d) has a principal place of business in the state, including a manufacturing or service  
 104 location; and

105 (e) is independently owned and operated.

106 ~~[(4)]~~ (6) "Technology Commercialization and Innovation Program" means  
 107 ~~[university-based];~~

108 (a) a federal- and industry-supported cooperative research and development  
 109 [programs-] program based at an institution of higher education; or

110 (b) a federal- and state-supported program for funding technologically innovative small  
 111 businesses.

112 Section 3. Section **63M-1-704** is amended to read:

113 **63M-1-704. Administration -- Grants and loans.**

114 (1) The Governor's Office of Economic Development shall administer this part.

115 (2) (a) (i) The office may award Technology Commercialization and Innovation  
116 Program grants or issue loans [~~to the various colleges, universities, and licensees in the state~~  
117 ~~for the purposes of this part.~~] under this part to an applicant that is:

118 (A) an institution of higher education;

119 (B) a licensee; or

120 (C) a small business.

121 (ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a  
122 fund or account as necessary for the proper accounting of the loans.

123 (b) [~~The Governor's Office of Economic Development shall develop~~] In accordance  
124 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules  
125 for a process to determine whether [a college or university] an institution of higher education  
126 that receives a grant under this part must return the grant proceeds or a portion of the grant  
127 proceeds if the technology that is developed with the grant proceeds is licensed to a licensee  
128 that:

129 (i) does not maintain a manufacturing or service location in the state from which the  
130 licensee or a sublicensee exploits the technology; or

131 (ii) initially maintains a manufacturing or service location in the state from which the  
132 licensee or a sublicensee exploits the technology, but within five years after issuance of the  
133 license the licensee or sublicensee transfers the manufacturing or service location for the  
134 technology to a location out of the state.

135 (c) A repayment by [~~a college or university~~] an institution of higher education of grant  
136 proceeds or a portion of the grant proceeds [~~shall come only~~] may only come from the proceeds  
137 of the license established between the licensee and the [~~college or university~~] institution of  
138 higher education.

139 (d) (i) [~~A licensee~~] An applicant that is a licensee or small business that receives a  
140 grant under this part shall return the grant proceeds or a portion of the grant proceeds to the  
141 office if the [~~licensee~~] applicant:

142 (A) does not maintain a manufacturing or service location in the state from which the  
143 [~~licensee~~] applicant exploits the technology; or

144 (B) initially maintains a manufacturing or service location in the state from which the  
145 [~~licensee~~] applicant exploits the technology, but within five years after issuance of the grant,  
146 the [~~licensee~~] applicant transfers the manufacturing or service location for the technology to an  
147 out-of-state location.

148 [~~(ii) A repayment by a licensee that receives a grant shall come only from the proceeds  
149 of the license to that licensee.~~]

150 [~~(iii) A repayment by a licensee shall be prorated based only on the number of full  
151 years the licensee operated in the state from the date of the awarded grant.~~]

152 (ii) A repayment by an applicant shall be prorated based on the number of full years the  
153 applicant operated in the state from the date of the awarded grant.

154 (iii) A repayment by a licensee that receives a grant may only come from the proceeds  
155 of the license to that licensee.

156 (3) (a) Funding allocations shall be made by the office with the advice of [~~the State  
157 Advisory Council for Science and Technology and~~] the board.

158 (b) Each proposal shall receive the best available outside review.

159 (4) (a) In considering each proposal, the office shall weigh technical merit, the level of  
160 matching funds from private and federal sources, and the potential for job creation and  
161 economic development.

162 (b) Proposals or consortia that combine and coordinate related research at two or more  
163 [~~colleges and universities~~] institutions of higher education shall be encouraged.

164 (5) The [~~State Advisory Council on Science and Technology~~] office shall review the  
165 activities and progress of grant recipients on a regular basis and [~~assist the office in preparing  
166 an annual~~], as part of the office's annual written report described in Section 63M-1-206, report  
167 on the accomplishments and direction of the Technology Commercialization and Innovation  
168 Program.

169 Section 4. **Effective date.**

170           This bill takes effect on July 1, 2014.

171           Section 5. **Coordinating S.B. 263 with S.B. 31 -- Superseding amendments.**

172           If this S.B. 263 and S.B. 31, State Agency Reporting Amendments, both pass and

173 become law, as of July 1, 2014, it is the intent of the Legislature that the amendments to

174 Section [63M-1-704](#) in this bill supersede the amendments to Section [63M-1-704](#) in S.B. 31,

175 when the Office of Legislative Research and General Counsel prepares the Utah Code database

176 for publication.